

House File 394 - Introduced

HOUSE FILE 394
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 117)

A BILL FOR

1 An Act providing for the regulation of transportation network
2 companies.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **321N.1 Purpose.**

2 The purpose of this chapter is to ensure the safety,
3 reliability, and cost-effectiveness of transportation network
4 company services within this state and to preserve and enhance
5 access to this important transportation option for residents
6 and visitors to the state.

7 Sec. 2. NEW SECTION. **321N.2 Definitions.**

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. *"Transportation network company" or "company"* means an
11 entity operating in this state that uses a digital network
12 or software application service to connect passengers to
13 transportation network company drivers providing transportation
14 network company services. A transportation network company
15 is not deemed to own, control, operate, or manage the motor
16 vehicles used by transportation network company drivers.

17 2. *"Transportation network company driver" or "driver"* means
18 a person who operates a motor vehicle that is owned, leased,
19 or otherwise authorized for use by the person to provide
20 transportation network company services.

21 3. *"Transportation network company services" or "services"*
22 means transportation of a passenger between points chosen by
23 the passenger and prearranged with a transportation network
24 company driver through the use of a digital network or software
25 application service maintained by a transportation network
26 company. *"Transportation network company services"* begin when
27 a transportation network company driver accepts a request for
28 transportation from a passenger sent through a digital network
29 or software application service maintained by a transportation
30 network company, continue during the time period in which the
31 transportation network company driver transports the passenger
32 in a motor vehicle, and end when the passenger exits the motor
33 vehicle.

34 Sec. 3. NEW SECTION. **321N.3 Other carriers — exclusion.**

35 A transportation network company, a transportation

1 network company driver, or a motor vehicle used to provide
2 transportation network company services is not a motor carrier
3 as defined in section 325A.1, private carrier as defined in
4 section 325A.1, charter carrier as defined in section 325A.12,
5 common carrier, or taxicab service.

6 Sec. 4. NEW SECTION. **321N.4 Agent.**

7 A transportation network company shall maintain an agent in
8 this state for service of process.

9 Sec. 5. NEW SECTION. **321N.5 Identification of vehicles and**
10 **drivers.**

11 Before a passenger enters the motor vehicle of a
12 transportation network company driver, the company shall
13 disclose all of the following information to the passenger on
14 the company's internet site or within the company's software
15 application service:

16 1. A picture that prominently displays the face of the
17 driver.

18 2. The registration plate number of the motor vehicle
19 operated by the driver.

20 Sec. 6. NEW SECTION. **321N.6 Fare for services.**

21 A transportation network company may charge a fare for the
22 services provided to a passenger if the company discloses all
23 of the following information to the passenger on the company's
24 internet site or within the company's software application
25 service:

26 1. The calculation method for the fare.

27 2. The applicable rates and fees to be charged to the
28 passenger.

29 3. The option for the passenger to receive an estimated
30 fare before the passenger enters a motor vehicle operated by a
31 transportation network company driver.

32 Sec. 7. NEW SECTION. **321N.7 Electronic receipt.**

33 Within a reasonable period of time following the completion
34 of services provided to a passenger, the transportation network
35 company shall transmit an electronic receipt to the passenger

1 containing all of the following information:

2 1. The origin and destination of the trip.

3 2. The total time and distance of the trip.

4 3. An itemized account of the total fare paid by the
5 passenger, if any.

6 Sec. 8. NEW SECTION. 321N.8 Insurance requirements.

7 1. a. For the period of time in which a transportation
8 network company driver is logged on to a transportation network
9 company's digital network or software application service
10 and is available to receive requests for transportation from
11 passengers, but is not providing transportation network company
12 services, the company shall maintain financial liability
13 coverage in amounts greater than or equal to those stated in
14 section 321A.1, subsection 11.

15 b. The financial liability coverage required by paragraph
16 "a" shall cover the transportation network company driver in the
17 event that the driver's financial liability coverage does not
18 provide coverage to the driver during the period of time stated
19 in paragraph "a", or does not provide coverage in the amounts
20 required by paragraph "a".

21 2. a. For the period of time in which a transportation
22 network company driver is providing transportation network
23 company services, the transportation network company or the
24 driver shall maintain financial liability coverage in the
25 amount of one million dollars for death, bodily injury, or
26 property damage.

27 b. The financial liability coverage shall explicitly
28 recognize that the coverage applies to a driver providing
29 transportation network company services.

30 c. The amount of financial liability coverage required by
31 paragraph "a" may be satisfied by a combination of insurance
32 policies maintained by the transportation network company and
33 the transportation network company driver.

34 3. Where the financial liability coverage maintained by a
35 driver to satisfy the requirements of this section lapses, is

1 canceled, fails to provide coverage, denies a claim, or ceases
2 to exist for any reason, the motor vehicle liability policy of
3 the transportation network company shall maintain the financial
4 liability coverage required by this section beginning with the
5 first dollar of a claim.

6 4. A financial liability coverage required by this section
7 shall be issued by an insurer licensed under section 522B.6,
8 subsection 2, paragraph "d", or section 522B.6, subsection 2,
9 paragraph "g".

10 5. a. An insurer licensed under chapter 522B shall
11 disclose, in a prominent place on the policy, whether or not
12 the policy provides coverage for a motor vehicle while the
13 vehicle is being used to provide transportation network company
14 services.

15 b. An insurer licensed under chapter 522B may exclude
16 coverage, including but not limited to liability coverage for
17 bodily injury or property damage, uninsured and underinsured
18 motorist coverage, medical payments coverage, comprehensive
19 physical damage coverage, or collision physical damage
20 coverage, for claims resulting from, or arising out of, the
21 insured motor vehicle being used to provide transportation
22 network company services, provided such exclusion is explicitly
23 set forth in the motor vehicle liability policy, and the
24 insurer or its agent discloses the language of the exclusion
25 in writing to the insured during the application process for
26 the policy.

27 c. If such an exclusion is explicitly set forth in the motor
28 vehicle liability policy, the insurer shall not have a duty to
29 indemnify or defend the insured against claims resulting from,
30 or arising out of, use of the insured motor vehicle to provide
31 transportation network company services, provided the insurer
32 complies with chapter 507B.

33 6. During a claims investigation, a transportation network
34 company and its insurer shall cooperate with the parties to the
35 claim to facilitate the exchange of information, including but

1 not limited to the time periods in which the driver was logged
2 on to the company's digital network or software application
3 service in the twenty-four-hour period immediately preceding
4 the accident, and the terms, conditions, and exclusions of
5 the applicable financial liability coverage maintained by the
6 company.

7 Sec. 9. NEW SECTION. **321N.9 Disclosure requirements.**

8 1. A transportation network company shall disclose all of
9 the following information to a transportation network company
10 driver in writing before the driver may accept a request from a
11 passenger for transportation network company services:

12 a. The amounts and terms of financial liability coverage
13 provided by the company to the driver while the driver operates
14 a motor vehicle in connection with the company's digital
15 network or software application service.

16 b. That the driver's personal motor vehicle liability policy
17 may not provide coverage when the driver operates a motor
18 vehicle in connection with the company's digital network or
19 software application service.

20 Sec. 10. NEW SECTION. **321N.10 Drug and alcohol use**
21 **prohibited.**

22 1. A transportation network company shall adopt a policy
23 prohibiting the use of drugs or alcohol by a transportation
24 network company driver while the driver is providing services
25 or is logged on to the company's digital network or software
26 application service and available to receive requests for
27 transportation from potential passengers. The company shall
28 display this policy on its internet site. The policy shall
29 include a procedure by which a passenger can submit a complaint
30 against a driver with whom the passenger was matched by
31 the company if the passenger reasonably suspects the driver
32 was under the influence of drugs or alcohol while providing
33 services to the passenger.

34 2. Upon receipt of a passenger complaint alleging a
35 violation of the drug and alcohol policy, the company shall

1 immediately suspend the driver's access to the company's
2 digital network or software application service and shall
3 conduct an investigation into the reported incident. The
4 suspension shall last for the duration of the investigation.

5 3. A transportation network company shall maintain all
6 records relevant to a complaint received pursuant to this
7 section for at least two years from the date the passenger
8 complaint was received by the company.

9 Sec. 11. NEW SECTION. 321N.11 Driver requirements.

10 1. Prior to permitting a person to act as a transportation
11 network company driver on a transportation network company's
12 digital network or software application service, the company
13 shall do all of the following:

14 a. Require the person to submit an application to the
15 company, including the person's address and age, and including
16 copies of the person's driver's license, driving history, motor
17 vehicle registration, proof of financial liability coverage,
18 and any other information required by the company.

19 b. Conduct, or instruct a third party to conduct, a local
20 and national criminal background check, including a report from
21 a national commercial criminal record database with validation,
22 and a report from the national sex offender registry database.

23 c. Obtain and review a driving history research report on
24 the person.

25 2. A transportation network company shall not permit a
26 person to act as a driver on the company's digital network or
27 software application service if any of the following apply:

28 a. The person has had more than three moving violations in
29 the prior three-year period.

30 b. The person has been convicted in the prior three-year
31 period of violating section 321.218, 321.277, 321.279, or
32 321J.21, or of any other moving violation punishable by more
33 than a scheduled fine.

34 c. The person has been convicted in the prior seven-year
35 period of violating section 321J.2 or 321J.2A, or any crime

1 involving fraud, a sexual offense, use of a motor vehicle to
2 commit a felony, property damage, theft, an act of violence, or
3 an act of terror.

4 *d.* The person is registered on the national sex offender
5 registry database.

6 *e.* The person does not possess a valid driver's license.

7 *f.* The person does not possess proof of a valid registration
8 for the motor vehicle used to provide transportation network
9 company services.

10 *g.* The person does not possess proof of financial liability
11 coverage for the motor vehicle used to provide transportation
12 network company services.

13 *h.* The person is not at least nineteen years of age.

14 Sec. 12. NEW SECTION. 321N.12 **Street hails prohibited.**

15 A transportation network company driver shall not solicit or
16 accept passengers hailing the driver from the street.

17 Sec. 13. NEW SECTION. 321N.13 **Cash payments prohibited.**

18 A transportation network company shall adopt a policy
19 prohibiting the solicitation or acceptance of cash payments
20 from passengers and shall notify drivers of the policy.
21 A driver shall not solicit or accept cash payments from
22 passengers. Any payment for services shall be made
23 electronically using the company's digital network or software
24 application service.

25 Sec. 14. NEW SECTION. 321N.14 **Records.**

26 A transportation network company shall maintain the records
27 of each instance of services provided to a passenger for at
28 least one year from the date the services were provided. A
29 company shall maintain the records of each of its drivers for
30 at least one year from the date a driver's activation on the
31 company's digital network or software application service has
32 ended.

33 Sec. 15. NEW SECTION. 321N.15 **Disclosure of personal**
34 **information.**

35 1. A transportation network company shall not disclose

1 a passenger's personal information to a third party unless
 2 the passenger consents to the disclosure, the disclosure is
 3 required by law, the disclosure is required to protect or
 4 defend the terms of use of the company's services, or the
 5 disclosure is required to investigate a violation of the terms
 6 of use. For purposes of this section, "*personal information*"
 7 includes but is not limited to the passenger's name, home
 8 address, telephone number, and payment information.

9 2. Notwithstanding subsection 1, a transportation network
 10 company may disclose a passenger's name and telephone number
 11 to the driver providing services to the passenger in order to
 12 facilitate the identification of the passenger by the driver,
 13 or to facilitate communication between the passenger and the
 14 driver.

15 Sec. 16. NEW SECTION. 321N.16 Prohibition of regulation by
 16 political subdivisions.

17 Transportation network companies and drivers are governed
 18 exclusively by this chapter. A political subdivision of the
 19 state shall not enact an ordinance regulating the activities or
 20 operations of a transportation network company or driver when
 21 such activities or operations are otherwise lawful under the
 22 laws of this state. An ordinance existing on or after July
 23 1, 2015, that regulates transportation network companies or
 24 drivers in violation of this section is void. A county, city,
 25 or other municipality of this state shall not impose a tax on,
 26 or require a license for, a transportation network company,
 27 driver, or a vehicle operated by a driver where such tax or
 28 license relates to providing transportation network company
 29 services, or subject a transportation network company or driver
 30 to any local rate, entry, or operational requirements, or any
 31 other requirements.

32 Sec. 17. Section 321.1, subsection 8, Code 2015, is amended
 33 by adding the following new paragraph:

34 NEW PARAGRAPH. *j.* A transportation network company driver,
 35 as defined in section 321N.2, is not a chauffeur.

1 Sec. 18. Section 325A.1, subsections 6, 7, and 13, Code
2 2015, are amended to read as follows:

3 6. "*Motor carrier*" means a person defined in subsection 8,
4 9, or 10 but does not include a transportation network company
5 or a transportation network company driver, as defined in
6 section 321N.2.

7 7. "*Motor carrier certificate*" means a certificate issued
8 by the department to any person transporting passengers on any
9 highway of this state for hire, other than a transportation
10 network company or a transportation network company driver, as
11 defined in section 321N.2. This certificate is transferable.

12 13. "*Private carrier*" means a person who provides
13 transportation of property or passengers by motor vehicle,
14 is not a for-hire motor carrier or a transportation network
15 company or a transportation network company driver, as defined
16 in section 321N.2, or who transports commodities of which the
17 person is the owner, lessee, or bailee and the transportation
18 is a furtherance of the person's primary business or
19 occupation.

20 Sec. 19. Section 325A.11, Code 2015, is amended to read as
21 follows:

22 **325A.11 Passenger transportation.**

23 In addition to the requirements of subchapter 1, motor
24 carriers of passengers and charter carriers shall comply with
25 the requirements of this subchapter. A transportation network
26 company or a transportation network company driver, as defined
27 in section 321N.2, need not comply with the requirements of
28 subchapter 1 or 2.

29 Sec. 20. Section 325A.12, subsection 3, Code 2015, is
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. e. A transportation network company or a
32 transportation network company driver, as defined in section
33 321N.2.

34 Sec. 21. Section 327D.1, Code 2015, is amended to read as
35 follows:

1 **327D.1 Applicability of chapter.**

2 This chapter applies to intrastate transportation by
 3 for-hire common carriers of persons and property. However,
 4 this chapter does not apply to regular route motor carriers
 5 of passengers or charter carriers, as defined under
 6 section 325A.12, or a transportation network company or a
 7 transportation network company driver, as defined in section
 8 321N.2.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
 11 the explanation's substance by the members of the general assembly.

12 This bill provides for the regulation of transportation
 13 network companies (TNCs).

14 The bill defines "transportation network company" as an
 15 entity that uses a digital network or software application
 16 service to connect passengers to TNC drivers providing TNC
 17 services. The bill provides that a TNC is not deemed to own,
 18 control, operate, or manage the motor vehicles used by TNC
 19 drivers. The bill further defines "transportation network
 20 company driver" and "transportation network company services".

21 The bill provides that TNCs, TNC drivers, and motor vehicles
 22 used to provide TNC services are not motor carriers, private
 23 carriers, charter carriers, common carriers, or taxicab
 24 services.

25 The bill requires TNCs to maintain an agent in the state,
 26 and provide passengers with an image of the driver, the
 27 license plate number of the driver, the calculation method for
 28 the fare, the option of receiving an estimated fare, and an
 29 electronic receipt.

30 The bill further requires TNCs and TNC drivers to
 31 maintain certain amounts of insurance coverage under certain
 32 circumstances, including \$1 million in death, bodily injury,
 33 and property damage coverage while the driver is providing
 34 TNC services. The bill provides for the means of satisfying
 35 the insurance requirements and details specifications for the

1 terms, exclusions, and disclosure requirements of insurance
2 policies with regard to motor vehicles providing TNC services.
3 During the investigation of a claim, the bill requires TNCs
4 and insurers to cooperate with the parties to the claim to
5 facilitate the exchange of information.

6 The bill requires TNCs to adopt a policy prohibiting the use
7 of drugs or alcohol by a driver while the driver is providing
8 services or is logged on to the company's digital network or
9 software application service and available to receive requests
10 for transportation from potential passengers. The policy
11 must include a procedure by which a passenger can submit a
12 complaint against a driver with whom the passenger was matched
13 by the company if the passenger reasonably suspects the driver
14 was under the influence of drugs or alcohol while providing
15 services to the passenger. Upon receipt of a passenger
16 complaint alleging a violation of the drug and alcohol policy,
17 the company shall immediately suspend the driver's access to
18 the company's digital network or software application service
19 and shall conduct an investigation into the reported incident.

20 The bill provides for certain requirements for drivers.
21 Drivers must be 19 years of age, possess a valid driver's
22 license, possess proof of a valid registration, and possess
23 proof of financial liability coverage. Drivers must not
24 have been convicted of certain moving violations or other
25 crimes within certain periods of time before applying to be
26 a TNC driver. The bill prohibits drivers from soliciting or
27 accepting passengers hailing the driver from the street, and
28 from accepting cash payments from passengers.

29 The bill provides for the retention of certain records, and
30 prohibits the release of personal information, except under
31 limited circumstances.

32 The bill prohibits local governments from imposing
33 requirements on TNCs or drivers.

34 The bill excludes TNCs and drivers from various definitions
35 and requirements relating to the transportation of passengers

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1 for hire that appear elsewhere in the Code.